IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FOURTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO: 9525 of 2004

Between:

1 The Principal Secretary to Government, Energy, Forests,Environment,

Science and Technology
Department, Secretariat Buildings, Hyderabad.
2 Principal Chief Conservator of Forests, Government of Andhra Pradesh,
Aranya Bhavan, Hyderabad.
3 The Conservator of Forests, Khammam Circle, Khammam.
4 Divisional forest Officer, Kothagudem, Khammam District.

... PETITIONERS

AND

Sri B.Muralidhar, S/o Ramanjaiah (Retired)
Dy.Range Officer, R/o Plot No.32, Road-3,
Sainagar, Alkapuri, Nagol, Hyderabad.

...RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ or direction more particularly one in the nature of "Writ of Certiorari" calling for the records connected with order dated 23-10-2003 in O.A.No.1456/1998 on the file of the Hon'ble Andhra Pradesh Administrative

Tribunal, Hyderabad and quash the same as illegal and erroneous and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case

Counsel for the Petitioner: GP FOR SERVICES I.

Counsel for the Respondent: MR. P.V. RAMANA, Advocate.

The Court made the following ORDER:

ORAL ORDER: (Per GB, J)

This Writ Petition is filed by the State Government challenging the order passed by the A.P. Administrative Tribunal dated 23-10-2003 in O.A.No.1456 (P-1).

2. The respondent-employee was issued with a charge memo on 25-06-1974 to which, he submitted an explanation on 20-09-1974. Thereafter, no punishment was imposed, but after a lapse of fourteen (14) years, the order of punishment was passed on 05-06-1988. Assailing the said punishment, he filed an appeal and review petition, but he was unsuccessful. Therefore, he filed the O.A. challenging the order passed on 05-06-1988 as confirmed by the appellate and revisional authority.

3. The Tribunal, after hearing the matter set aside the said order on two grounds viz., that there was an inordinate delay in imposing the order of punishment and that no enquiry was conducted while imposing punishment of deferment of two increments with cumulative effect. Against the said order, the present Writ Petition has been filed by the State Government.

4. Learned Government Pleader appearing for the petitioner submits that the order passed by the Tribunal is only erroneous and contrary to law. He submits that at the relevant time of

imposing the punishment of deferment of two increments with cumulative effect, no enquiry need be conducted. Secondly, he also submits that the delay, which has taken place is normal in an administrative setup and as such, the delay cannot be said to have caused any prejudice to the case of the petitioner. He relied on a decision of the Supreme Court in **M/S. K. STREETLITE ELECTRIC CORPORATION V. REGIONAL PROVIDENT FUND COMMMISSIONER**. He further submits that the order is liable to be set aside.

5. We have heard the learned counsel for parties.

6. The decision said to be relied upon by the learned Government Pleader is not applicable to the facts of this case. That the matter arose under the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, wherein for passing the order of damage, the delay cannot be said to be prejudiced to the management. But the matter on hand relates to the disciplinary proceedings. The Supreme Court in **STATE OF A.P. V. N. RADHAKISHAN** had categorically held that unexplained delay in conclusion of the proceedings, itself is an indication of prejudice caused to the employee, and therefore quashed the disciplinary proceedings in the said case. The same principle was applied by the Tribunal and set aside the same. Under those circumstances, we are of the considered view that the order passed by the Tribunal is quite valid and we uphold the order of the Tribunal on the first point that the delay caused prejudice to the petitioner. We do not consider the other aspect in view of the finding of the first issue.

7. The Writ Petition is accordingly dismissed. No costs.

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(G. BIKSHAPATHY, J)

July 14, 2004

MRR

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(B. SESHASAYANA REDDY, J)

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